



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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24-ORD-140

June 18, 2024

In re: Makeda Charles/Central State Hospital

Summary: The Office cannot find that the Central State Hospital (“the Hospital”) violated the Open Records Act (“the Act”) because the Office is unable to resolve the factual dispute between the parties about whether the Hospital received a request for records.

Open Records Decision

Makeda Charles¹ (“Appellant”) claims she submitted a request to the Hospital seeking video footage related to the time she was a patient at the Hospital and the transcript of a call a Hospital nurse placed on April 9, 2022. She then initiated this appeal, claiming to have received no response from the Hospital.

If an agency receives a request under the Act, it “shall determine within five (5) [business] days . . . *after the receipt* of any such request whether to comply with the request and shall notify in writing the person making the request, within the five (5) day period, of its decision.” KRS 61.880(1) (emphasis added). Here the Appellant provided the Office with an undated request she claims to have submitted to the Hospital. However, the Hospital claims it never received the request, and it notes that the request provided by the Appellant was unaddressed and did not indicate receipt by the Hospital. This Office has found it cannot resolve factual disputes

¹ The Office takes notice of its decision in 24-ORD-135 involving another appeal initiated by the Appellant. Based on the record developed in that appeal, the Office found that the Louisville Regional Airport Authority did not violate the Act when it denied a request for records because the Appellant is not a resident of the Commonwealth. The Act only gives a “resident of the Commonwealth” the statutory right to demand access to public records. KRS 61.872(2)(a). It does not, however, prohibit nonresidents from obtaining public records. Rather, “[t]he official custodian *may* require the applicant to provide a statement in the written application of the manner in which the applicant is a resident of the Commonwealth under KRS 61.870(10)(a) to (f).” *Id.* (emphasis added). Here, the Hospital has not challenged the Appellant’s status as a “resident of the Commonwealth.” Thus, that issue is not properly before the Office and its decision in 24-ORD-135 is not dispositive here.

between the parties to an open records appeal, such as whether an agency actually received a request to inspect records. *See, e.g.,* 23-ORD-062; 22-ORD-024; 21-ORD-233; 21-ORD-163. Thus, the Office is unable to find that the Hospital violated the Act when it did not issue a response to a request it claims it never received.²

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under KRS 61.880(3), the Attorney General shall be notified of any action in circuit court, but shall not be named as a party in that action or in any subsequent proceedings. The Attorney General will accept notice of the complaint emailed to OAGAppeals@ky.gov.

Russell Coleman
Attorney General

/s/ Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

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Distributed to:

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² On appeal, the Hospital states it has provided the Appellant with 475 pages of records responsive to requests it did receive from the Appellant. The Hospital further adds that it does not possess records responsive to the undated request because it does not “have video recording devices in patient units and did not record or transcribe phone calls.”